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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,196	12/04/2001	Keith D. Allen	632R/40338.28USU1	6896

7590 09/16/2004
MERCHANT & GOULD P.C.
PO BOX 2903
Minneapolis, MN 55402-0903

EXAMINER

BERTOGLIO, VALARIE E

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/005,196

Applicant(s)

ALLEN ET AL.

Examiner

Valarie Bertoglio

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08/31/04 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 30 August 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

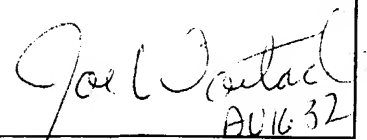
NOTE: .

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: .Claim(s) objected to: .Claim(s) rejected: 6,8,9,23,29-32 and 35-39.Claim(s) withdrawn from consideration: .

8. ☐ The drawing correction filed on is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). .
10. ☐ Other:


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Continuation of 3. Applicant's reply has overcome the following rejection(s): The specific scope of enablement rejection relating to claims 23 and 30 as set forth on page 4, paragraphs 4-5 and the paragraph bridging pages 4-5 of the previous office action. .

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments regarding the utility rejection are not persuasive. The rejection is maintained for reasons of record. The utility of the claimed mouse and methods is not substantial or specific. No clear nexus between the claimed mouse and anxiety has been made. It would require further research to correlate the observed phenotypes with a specific human disorder, including anxiety. Without a correlation to a disorder, one would not know how to use an agent that affects a phenotype of the claimed mouse. Applicant has argued that the mouse can be used to study the function of the FPR-RS4 gene. Basic research such as studying properties of the claimed product is not a substantial utility .